

AMENDED IN SENATE JUNE 22, 1998  
AMENDED IN ASSEMBLY JANUARY 28, 1998  
AMENDED IN ASSEMBLY JANUARY 6, 1998  
AMENDED IN ASSEMBLY APRIL 7, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1386**

**Introduced by Assembly Member Goldsmith**

February 28, 1997

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An act to amend ~~Section 594 of the Penal Code, relating to crimes—Sections 594, 594.6, and 640.7 of the Penal Code, relating to vandalism.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as amended, Goldsmith. Punishment: vandalism.

*(1) Under existing law, vandalism is defined to include any act that defaces personal or real property with graffiti or other inscribed material. Whether the act is punishable as a felony or a misdemeanor depends upon the monetary amount of the defacement. If the amount of defacement, damage, or destruction is less than \$400, vandalism is punishable by imprisonment in a county jail for not more than 6 months, or by a fine of not more than \$1,000 or by both.*

*This bill would increase the penalty if the amount of defacement, damage, or destruction is less than \$400 and the defendant has been previously convicted of vandalism or*

*affixing inscribed material, as specified. In that case the crime of vandalism would be punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than \$5,000, or by both. By increasing the penalty for an existing crime, this bill would impose a state-mandated local program.*

*(2) Existing law authorizes the court to impose community service, as specified, as a condition of probation, upon a person who has been previously convicted of vandalism or other similar specified offense or offenses on 2 separate occasions, having been incarcerated for at least one of those convictions, who is subsequently convicted of vandalism. The order to perform community service may not exceed 300 hours over a specified period of time.*

*This bill would delete the above requirement of a prior conviction and incarceration, and authorize the court to impose community service under the above provision as a condition of probation, upon a person who has been convicted of vandalism or other specified offense. This bill would also make conforming changes.*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law provides punishment for vandalism based upon the amount of the damage caused by acts of vandalism. If the damage is \$400 or more but less than \$5,000, the punishment is imprisonment of not more than one year in a county jail, or by a fine of \$5,000, or both; if the damage is \$5,000 or more but less than \$50,000, punishment is imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than \$10,000, or both.~~

~~This bill would instead provide that if the damage is \$400 or more, punishment is imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than \$10,000, or if the damage is \$10,000 or more, by a fine of not more than \$50,000, or by both that fine and imprisonment.~~

~~By increasing the punishment for a crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. Section 594 of the Penal Code is~~

2 *SECTION 1. Section 594 of the Penal Code is*  
3 *amended to read:*

4 594. (a) Every person who maliciously commits any  
5 of the following acts with respect to any real or personal  
6 property not his or her own, in cases other than those  
7 specified by state law, is guilty of vandalism:

8 (1) Defaces with graffiti or other inscribed material.

9 (2) Damages.

10 (3) Destroys.

11 Whenever a person violates this subdivision with  
12 respect to real property, vehicles, signs, fixtures, or  
13 furnishings belonging to any public entity, as defined by  
14 Section 811.2 of the Government Code, or the federal  
15 government, it shall be a permissive inference that the  
16 person neither owned the property nor had the  
17 permission of the owner to deface, damage, or destroy the  
18 property.

19 (b) (1) If the amount of defacement, damage, or  
20 destruction is fifty thousand dollars (\$50,000) or more,  
21 vandalism is punishable by imprisonment in the state  
22 prison or in a county jail not exceeding one year, or by a  
23 fine of not more than fifty thousand dollars (\$50,000), or  
24 by both that fine and imprisonment.

25 (2) If the amount of defacement, damage, or  
26 destruction is five thousand dollars (\$5,000) or more but  
27 less than fifty thousand dollars (\$50,000), vandalism is

1 punishable by imprisonment in the state prison, or in a  
2 county jail not exceeding one year, or by a fine of not  
3 more than ten thousand dollars (\$10,000), or by both that  
4 fine and imprisonment.

5 (3) If the amount of defacement, damage, or  
6 destruction is four hundred dollars (\$400) or more but  
7 less than five thousand dollars (\$5,000), vandalism is  
8 punishable by imprisonment in a county jail not  
9 exceeding one year, or by a fine of five thousand dollars  
10 (\$5,000), or by both that fine and imprisonment.

11 (4) (A) If the amount of defacement, damage, or  
12 destruction is less than four hundred dollars (\$400),  
13 vandalism is punishable by imprisonment in a county jail  
14 for not more than six months, or by a fine of not more than  
15 one thousand dollars (\$1,000), or by both that fine and  
16 imprisonment.

17 (B) *If the amount of defacement, damage, or*  
18 *destruction is less than four hundred dollars (\$400), and*  
19 *the defendant has been previously convicted of*  
20 *vandalism or affixing graffiti or other inscribed material*  
21 *under Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7,*  
22 *vandalism is punishable by imprisonment in a county jail*  
23 *for not more than one year, or by a fine of not more than*  
24 *five thousand dollars (\$5,000) or by both that fine and*  
25 *imprisonment.*

26 (c) Upon conviction of any person under this section  
27 for acts of vandalism consisting of defacing property with  
28 graffiti or other inscribed materials, the court may, in  
29 addition to any punishment imposed under subdivision  
30 (b), order the defendant to clean up, repair, or replace  
31 the damaged property himself or herself, or, if the  
32 jurisdiction has adopted a graffiti abatement program,  
33 order the defendant, and his or her parents or guardians  
34 if the defendant is a minor, to keep the damaged property  
35 or another specified property in the community free of  
36 graffiti for up to one year. Participation of a parent or  
37 guardian is not required under this subdivision if the  
38 court deems this participation to be detrimental to the  
39 defendant, or if the parent or guardian is a single parent  
40 who must care for young children.

(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent upon a finding of good cause.

(e) As used in this section, the term “graffiti or other inscribed material” includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(f) As used in this section, “graffiti abatement program” means a program adopted by a city, county, or city and county by resolution or ordinance that provides for the administration and financing of graffiti removal, community education on the prevention of graffiti, and enforcement of graffiti laws.

(g) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (c) to undergo counseling.

*SEC. 2. Section 594.6 of the Penal Code is amended to read:*

594.6. (a) Every person who, having been convicted ~~previously~~ of vandalism or affixing graffiti or other inscribed material under Section 594, 594.3, 594.4, ~~640.5, 640.6, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted of vandalism under Section 594,~~ may be ordered by the court as a condition of probation to perform community service not to exceed 300 hours over a period not to exceed 240 days during a time other than his or her hours of school attendance or employment. *Nothing in this subdivision shall limit the court from ordering the defendant to perform a longer period of community service if a longer period of community service is authorized under other provisions of law.*

(b) In lieu of the community service that may be ordered pursuant to subdivision (a), the court may, if a

1 jurisdiction has adopted a graffiti abatement program as  
2 defined in subdivision (f) of Section 594, order the  
3 defendant, and his or her parents or guardians if the  
4 defendant is a minor, as a condition of probation, to keep  
5 a specified property in the community free of graffiti for  
6 up to one year. Participation of a parent or guardian is not  
7 required under this subdivision if the court deems this  
8 participation to be detrimental to the defendant, or if the  
9 parent or guardian is a single parent who must care for  
10 young children.

11 (c) The court may order any person ordered to  
12 perform community service or graffiti removal pursuant  
13 to subdivision (a) or (b) to undergo counseling.

14 *SEC. 3. Section 640.7 of the Penal Code is amended to*  
15 *read:*

16 640.7. ~~(a)~~ Any person who violates Section 594, 640.5,  
17 ~~or 640.6, or 594~~ on or within 100 feet of a highway, or its  
18 appurtenances, including, but not limited to, guardrails,  
19 signs, traffic signals, snow poles, and similar facilities,  
20 excluding signs naming streets, is guilty of a  
21 misdemeanor, punishable by imprisonment in a county  
22 jail not exceeding six months, or by a fine not exceeding  
23 one thousand dollars (\$1,000), or by both that  
24 imprisonment and fine. A second conviction is punishable  
25 by imprisonment in a county jail not exceeding one year,  
26 or by a fine not exceeding one thousand dollars (\$1,000),  
27 or by both that imprisonment and fine.

28 ~~(b) As a condition of probation, the court may order~~  
29 ~~the defendant to perform community service not to~~  
30 ~~exceed 100 hours over a period not to exceed 90 days~~  
31 ~~during a time other than during his or her hours of school~~  
32 ~~attendance or employment. If the person has been~~  
33 ~~convicted previously of this offense, the court may, in~~  
34 ~~addition, order the defendant to perform community~~  
35 ~~service not to exceed 200 hours over a period not to~~  
36 ~~exceed 180 days during a period other than during his or~~  
37 ~~her hours of school attendance or employment. If the~~  
38 ~~person has been convicted twice previously of this~~  
39 ~~offense, the court, in addition, may order the defendant~~

~~1 to perform community service not to exceed 300 hours  
2 over a period not to exceed 240 days.~~

*SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

*Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.*

~~amended to read:~~

~~594. (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:~~

~~(1) Defaces with graffiti or other inscribed material.~~

~~(2) Damages.~~

~~(3) Destroys.~~

~~Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, or furnishings belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.~~

~~(b) (1) If the amount of defacement, damage, or destruction is four hundred dollars (\$400) or more, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or if the amount of defacement, damage, or destruction is ten thousand dollars (\$10,000) or more, by a fine of not~~

1 ~~more than fifty thousand dollars (\$50,000), or by both that~~  
2 ~~fine and imprisonment.~~

3 ~~(2) If the amount of defacement, damage, or~~  
4 ~~destruction is less than four hundred dollars (\$400),~~  
5 ~~vandalism is punishable by imprisonment in a county jail~~  
6 ~~for not more than six months, or by a fine of not more than~~  
7 ~~one thousand dollars (\$1,000), or by both that fine and~~  
8 ~~imprisonment.~~

9 ~~(c) Upon conviction of any person under this section~~  
10 ~~for acts of vandalism consisting of defacing property with~~  
11 ~~graffiti or other inscribed materials, the court may, in~~  
12 ~~addition to any punishment imposed under subdivision~~  
13 ~~(b), order the defendant to clean up, repair, or replace~~  
14 ~~the damaged property himself or herself, or, if the~~  
15 ~~jurisdiction has adopted a graffiti abatement program,~~  
16 ~~order the defendant, and his or her parents or guardians~~  
17 ~~if the defendant is a minor, to keep the damaged property~~  
18 ~~or another specified property in the community free of~~  
19 ~~graffiti for up to one year. Participation of a parent or~~  
20 ~~guardian is not required under this subdivision if the~~  
21 ~~court deems this participation to be detrimental to the~~  
22 ~~defendant, or if the parent or guardian is a single parent~~  
23 ~~who must care for young children.~~

24 ~~(d) If a minor is personally unable to pay a fine levied~~  
25 ~~for acts prohibited by this section, the parent of that~~  
26 ~~minor shall be liable for payment of the fine. A court may~~  
27 ~~waive payment of the fine or any part thereof by the~~  
28 ~~parent upon a finding of good cause.~~

29 ~~(e) As used in this section, the term “graffiti or other~~  
30 ~~inscribed material” includes any unauthorized~~  
31 ~~inscription, word, figure, mark, or design that is written,~~  
32 ~~marked, etched, scratched, drawn, or painted on real or~~  
33 ~~personal property.~~

34 ~~(f) As used in this section, “graffiti abatement~~  
35 ~~program” means a program adopted by a city, county, or~~  
36 ~~city and county by resolution or ordinance that provides~~  
37 ~~for the administration and financing of graffiti removal,~~  
38 ~~community education on the prevention of graffiti, and~~  
39 ~~enforcement of graffiti laws.~~



1     ~~(g) The court may order any person ordered to~~  
2     ~~perform community service or graffiti removal pursuant~~  
3     ~~to subdivision (c) to undergo counseling.~~

4     ~~SEC. 2. No reimbursement is required by this act~~  
5     ~~pursuant to Section 6 of Article XIII B of the California~~  
6     ~~Constitution because the only costs that may be incurred~~  
7     ~~by a local agency or school district will be incurred~~  
8     ~~because this act creates a new crime or infraction,~~  
9     ~~eliminates a crime or infraction, or changes the penalty~~  
10    ~~for a crime or infraction, within the meaning of Section~~  
11    ~~17556 of the Government Code, or changes the definition~~  
12    ~~of a crime within the meaning of Section 6 of Article~~  
13    ~~XIII B of the California Constitution.~~

14    ~~Notwithstanding Section 17580 of the Government~~  
15    ~~Code, unless otherwise specified, the provisions of this act~~  
16    ~~shall become operative on the same date that the act~~  
17    ~~takes effect pursuant to the California Constitution.~~